

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AVENTURA TECHNOLOGIES, INC.,

CIVIL CASE MANAGEMENT PLAN

Plaintiff,

2:22-cv-04241-(BMC)

-against-

CONVERGINT TECHNOLOGIES LLC,

Defendant.

COGAN, District Judge

After consultation with counsel for the parties, the following Case Management Plan is adopted. This plan is also a scheduling order pursuant to Federal Rules of Civil Procedure 16 and 26(f).

A. The case (is)X (is not) to be tried to a jury. [Circle as appropriate].

B. Non-Expert Discovery:

1. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of Eastern District of New York. All non-expert discovery is to be completed by January 9, 2023, which date shall not be adjourned except upon a showing of good cause and further order of the Court. Interim deadlines for specific discovery activities may be extended by the parties on consent without application to the Court, provided the parties are certain that they can meet the discovery completion date.

The parties shall list the contemplated discovery activities and anticipated completion dates in Attachment A, annexed hereto.

2. Joinder of additional parties must be accomplished by 9/12/2022.

3. Amended pleadings may be filed without leave of the Court until

9/12/2022.

C. For all causes of action seeking monetary damages, each party shall identify and quantify in Attachment B, annexed hereto, each component of damages alleged; or, in not known, specify and indicate by what date Attachment B shall be filed providing such information.

D. Motions:

1. Upon the conclusion of non-expert discovery, and no later than the date provided below, the parties may file dispositive motions. The parties shall agree to a schedule and promptly submit same for the Court's approval, providing for no more than three rounds of serving and filing papers: supporting affidavits and briefs, opposing affidavits and briefs, and reply affidavits and briefs.

2. The last day for filing a letter, pursuant to Rule III.A.2 of the Court's Individual Practices, requesting a premotion conference in order to file dispositive motions shall be 1/16/2023. (Counsel shall insert a date one week after the completion date for non-expert discovery.)

a. There shall be no cross-motions. Any motions not made by the agreed date shall, unless the Court orders otherwise, not be considered until after the timely-filed motion is determined.

b. Papers served and filed by the parties shall conform to the requirements set out in the Court's Individual Practices.

E. Any request for relief from a date provided in this Case Management Plan shall conform to the Court's Individual Practices and include an order, showing consents and disagreements of all counsel, setting out all dates that are likely to be affected by the granting of the relief requested, and proposed modified dates. Unless and until the Court approves the proposed order, the dates provided in this Plan shall be binding.

F. Pre-Trial Motions:

Applications for adjournments and for discovery or procedural rulings will reflect or contain the positions of all parties, as provided by the Court's Individual Rules, and are not to modify or delay the conduct of discovery or the schedules provided in this Case Management Plan except upon leave of the Court.

SO ORDERED.

U.S.D.J.

ATTACHMENT A

The Parties are to list the discovery activities (i.e., production of documents, number of depositions, requests to admit, interrogatories) and anticipated completion dates:

DISCOVERY ACTIVITIES	COMPLETION DATE
1. Rule 26(a)(1) Disclosures	9/12/2022
2. Service of Rule 34 document demands	10/1/2022
Service of Rule 33 Interrogatory demands	10/1/2022
3. Responses to Rule 34 document demands	11/1/2022
Responses to Rule 33 Interrogatory demands	11/1/2022
4. Deposition of Plaintiff Representatives	12/1/2022
Deposition of Defendant Representatives	12/29/2022
Deposition of Third-Party Fact Witnesses	12/29/2022
5. Service of Requests for Admissions	12/10/2022
6. Responses to Requests for Admissions	1/9/2023
7.	

ATTACHMENT B

For all causes of action seeking monetary damages, each party shall identify and quantify each component of damages alleged:

1. PLAINTIFF'S CLAIMS:

1. Goods Sold and Delivered
2. Account Stated
3. Unjust Enrichment

Total Claim: \$1,061,879.18 plus interest

(All information taken from Plaintiff Complaint)

2. COUNTERCLAIMS AND CROSS-CLAIMS:

Defendant, Convergint Technologies LLC (“Convergint”) has requested a pre-motion conference to seek leave to move to compel arbitration due to an unambiguous mandatory arbitration clause, and/or in the alternative to dismiss for lack of personal jurisdiction. A premotion conference is scheduled for August 12, 2022. Convergint has not yet filed an answer to Plaintiff's Complaint.

However, in the event, this matter is not sent to arbitration and/or dismissed, Convergint anticipates potential counterclaims including:

1. Common Law Fraud
2. Breach of Contract
3. Breach of Express Warranty
4. Breach of Implied Warranty of Fitness for a Particular Purpose
5. Breach of Implied Warranty of Merchantability

The specific monetary value of Convergint's potential claims against Aventura listed above is unknown at this time. Convergint anticipates that it will be able to provide an amended Attachment B should it be required to file an answer.

3. THIRD-PARTY CLAIMS:

None anticipated at this time.